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FILED
JUN 1 1903
JAMES H. McKENNEY,
Clerk

IN THE SUPREME COURT OF THE UNTED STATES.

OCTOBER TERM, 1902.

The DELAWARE INDIANS, Residing in the Cherokee Nation and others, Petitioners, *Appellants*,

vs.

The CHEROKEE NATION, Defendants, *Appellees.*

No. 843. 240

APPEAL FROM THE COURT OF CLAIMS.

Motion to Advance.

This is an appeal to review a judgment of the Court of Claims, filed February 2, 1903, directing that the petition of the complainants be dismissed.

The petition was filed under the provisions of Section 25 of the Act of Congress of June 28, 1898, entitled "an Act for the protection of the people of the Indian Territory and for other purposes": (30 Stat. L., p. 490).

The case involves the construction of the agreement between the Delaware Indians and the Cherokee Nation of April 8, 1867, under which the Delaware Indians claim title to 157,600 acres of Cherokee land together with a large sum of money.

By the provisions of said Section 25, as also by Section 23 of the Act of Congress approved July 1, 1902, entitled "An

Act to provide for allotment of the lands of the Cherokee Nation, for the disposition of townsites therein and for other purposes" (32 Stats. L., part 1, p. 716), the Commission to the Five Civilized Tribes who are engaged in allotting the lands in the Indian Territory to the members of the several Indian tribes are required to segregate and reserve from allotment the 157,600 acres of land claimed by the Delaware Indians in this suit until final judgment is rendered herein by the Supreme Court of the United States, and by the last clause of said section it is provided that, "Said suit shall be advanced on the dockets of said Courts and determined at the earliest time practicable." The withholding of said lands from allotment hinders the work of the Commission to the Five Civilized Tribes charged with the onerous and responsible duties of allotting equally the lands of the Cherokee Nation to the various parties entitled thereto.

With the concurrence of the counsel for the appellants, I submit this motion to advance this case for hearing early in the next term.

WM. T. HUTCHINGS,
Attorney for Appellees.

JNO. J. HEMPHILL,
of Counsel.